

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-v-

ONE GRAY 2014 CHRYSLER 300,  
VIN:2C3CCAGG3EH222701,

Defendant.

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**VERIFIED COMPLAINT FOR FORFEITURE**

The United States of American, by and through its attorney's James P. Kennedy, Jr., United States Attorney for the Western District of New York, and Mary Clare Kane, Assistant United States Attorney, of counsel, for its Verified Complaint for Forfeiture herein alleges as follows:

**CAUSE OF ACTION**

1. This is an action *in rem* for the forfeiture of one gray 2014 Chrysler 300, VIN: 2C3CCAGG3EH222701 (hereinafter referred to as "defendant vehicle"), seized from claimant, KEITH TERRY (hereinafter "Claimant"), pursuant to Title 21, United States Code, Section 881(a)(4).

2. This Court has subject matter jurisdiction of this action pursuant to the provisions of Title 28, United States Code, Sections 1345 and 1355(a), and *in rem* jurisdiction pursuant to Title 28, United States Code, Sections 1355(b) and 1355(d). Venue is properly

premised in the Western District of New York pursuant to Title 28, United States Code, Section 1395.

3. On or about March 2, 2021, the Buffalo Police Department (“BPD”) seized the defendant vehicle subsequent to an investigation of drug trafficking involving Claimant in the area of Buffalo, New York. It was seized upon the basis that it was used, or intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of a controlled substance, in violation of Title 21, United States Code, Subchapter I of Chapter 13, Section 801 *et. seq.* The defendant vehicle is subject to forfeiture pursuant to Title 21, United States Code, Section 881(a)(4) (as facilitating property)

4. The defendant vehicle was turned over by BPD to the United States Drug Enforcement Administration (“DEA”) for federal forfeiture proceedings. The defendant vehicle is now under the control of the United States Marshal Service in Buffalo, New York. The defendant vehicle is being held in the Western District of New York.

### **INVESTIGATION**

5. On March 2, 2021, law enforcement officers executed a New York State search warrant, authorizing the search of Claimant and the defendant vehicle. Approximately ten days prior to March 2, 2021, BPD Narcotic Detectives received information from a confidential informant (“CI”) that Claimant was selling crack cocaine from the defendant vehicle, and that BPD Detectives also witnessed Claimant sell crack cocaine from the defendant vehicle multiple times.

6. During the execution of the aforementioned search warrant, BPD detectives felt bulky objects on Claimant's person. When asked if he had any drugs on him, Claimant initially denied possessing any drugs. After being advised of the *Miranda* warnings, and while sitting in the rear of the patrol vehicle, Claimant reached down the front of his pants, and pulled out a large bag, that was thereafter found to contain 31 individually wrapped baggies of crack cocaine. Claimant handed the bag of narcotics over to the Detectives. Among the baggies of crack cocaine handed to Detectives by Claimant, less than two ounces of marihuana was also seized from the defendant vehicle.

7. Claimant was charged with two counts of Criminal Possession of a Controlled Substance in the Third degree, a class B felony; and Criminal Possession of a Controlled Substance one in the Fourth Degree, a class C felony

#### **SEIZURE OF DEFENDANT VEHICLE**

8. On March 2, 2021, the defendant vehicle was seized pursuant to the authority of a New York State search warrant and as property that is used for the purpose of attempting to commit or committing the criminal offense of narcotics trafficking or possessing illegal narcotics.

9. Upon information and belief, Claimant has no lawful or gainful employment.

#### **CLAIMANT'S PRIOR CRIMINAL HISTORY**

10. Claimant has criminal history record which includes the following drug related arrests and convictions:

11. On March 02, 2021, Claimant was arrested by BPD and charged with Criminal Possession of a Controlled Substance in the Third Degree: with Intent to Sell, in violation of New York State Penal Law Section 220.16; Criminal Possession of a Narcotic Drug in the Fourth Degree, in violation of New York State Penal Law Section 220.09. On May 14, 2021, Claimant pled guilty in Buffalo City Court to Criminal Possession of a Controlled Substance in the Seventh Degree, in violation of New York State Penal Law Section 220.03 and on May 14, 2021, sentenced to a conditional discharge.

12. On August 22, 2010, Claimant was arrested by BPD and charged with Criminal Possession of a Loaded Firearm: Other Than Person's Home/business, in violation of New York State Penal Law Section 265.03. On December 15, 2011, Claimant was convicted following a bench trial in Erie County Court, to the current charge, and on April 03, 2012, he was sentenced to a 42-month term of imprisonment and a five years' of post release supervision. Claimant served additional jail time as a result of two probation violations.

#### **INITIATION OF JUDICIAL ACTION**

13. On or about June 04, 2021, Claimant, *pro se*, submitted a claim to the Drug Enforcement Administration to halt the administrative forfeiture proceedings against the defendant vehicle in favor of judicial forfeiture proceedings.

#### **CONCLUSION AND REQUESTS FOR RELIEF**

Based on all of the forgoing facts, the circumstances surrounding these facts, and experience and training of officers involved, there is cause to believe that the defendant vehicle was used, or intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of a controlled substance, in violation of Title 21, United States Code, Subchapter I of Chapter 12, Section 801 *et. seq.* and is subject to forfeiture pursuant to Title 21, United States Code, Sections 881(a)(4) (as facilitating property).

WHEREFORE, the United States of America respectfully requests:

- (1) that an arrest warrant *in rem* be issued for the arrest of the defendant vehicle;
- (2) that notice of this action be given to all persons known or thought to have an interest in or right against the defendant property;
- (3) that a judgment be entered declaring the defendant vehicle be condemned and forfeited to the United States of America for disposition in accordance with the law;
- (4) that the costs of this suit be paid and recovered by the United States of America; and
- (5) that the Court grant such order and further relief as deemed just and proper.

DATED: Buffalo, New York, September 1, 2021

JAMES P. KENNEDY, JR.  
UNITED STATES ATTORNEY  
WESTERN DISTRICT OF NEW YORK

BY: sMARY CLARE KANE  
Assistant United States Attorney  
United States Attorney's Office  
138 Delaware Avenue  
Buffalo, New York 14202

**STATE OF NEW YORK    )**  
**COUNTY OF ERIE        )**       **ss.:**  
**CITY OF BUFFALO      )**

**SHANE NASTOFF**, being duly sworn, deposes and says:

I am a Special Agent with the Drug Enforcement Administration, Buffalo NY, and I am familiar with the facts and circumstances surrounding the seizure of the 2014 Chrysler 300, VIN: 2C3CCAGG3H222701 seized from Keith Terry in Buffalo, New York on or about March 2, 2021. The facts alleged in the Complaint for Forfeiture are true to the best of my knowledge and belief, and based upon information furnished to me by the officials of the DEA, Buffalo Police Department, and provided to the officials of the United States Department of Justice.

s/SHANE NASTOFF  
Special Agent  
Drug Enforcement Administration

Subscribed and sworn to  
before me this 1<sup>st</sup> day of  
September, 2021.

s/Gabriela Rodriguez  
Notary Public

**GABRIELA RODRIGUEZ**  
Notary Public, State of New York  
Qualified in Niagara County  
My Commission Expires: 09/04/2022